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U.S. DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK  
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\*ADMITTED IN DC ONLY

September 27, 2011

Re: In re Deutsche Bank AG Securities Litigation  
 (Case No. 09-cv-1714-DAB)

Dear Judge Batts:

We represent the Deutsche Bank and Individual Defendants in the above-referenced matter, and write on behalf of Defendants in response to Plaintiffs' letter dated September 23, 2011 requesting a pre-motion conference on their intended motion to compel discovery.

Plaintiffs' conclusory assertions notwithstanding, the Second Circuit's decision in *Fait v. Regions Financial Corp.*, No. 10-cv-2311, 2011 WL 3667784 (2d Cir. Aug. 23, 2011), is "binding precedent for this Court, that advances new reasoning addressing a significant issue in the case and warrants revisiting the Court's analysis . . . ." *In re Salomon Analyst Litigation*, 373 F. Supp. 2d 252, 256 (S.D.N.Y. 2005) (Lynch, J.). It is consistent with the policy of the Private Securities Litigation Reform Act ("PSLRA") to stay discovery in this matter. *See id.*

As discussed in our letter to Plaintiffs dated September 14, 2011 (attached to Plaintiffs' letter to Your Honor), decisions in other districts hold that the automatic discovery stay imposed by the PSLRA is extended during the pendency of a motion for reconsideration. *See McGuire v. Dendreon Corp.*, No. C07-800-MJP, 2009 WL 666863, at \*1 (W.D. Wash. Mar. 11, 2009); *Powers v. Eichen*, 961 F. Supp. 233, 236 (S.D. Cal. 1997). Moreover, although the motion at issue in *In re Salomon Analyst Litigation* was a renewed motion to dismiss, not a motion for reconsideration, that distinction is of no significance, and Judge Lynch's analysis is fully applicable here:

"Without in any way prejudging the merits of their motion to dismiss, the successive motion here . . . is neither frivolous nor advanced solely to delay the proceedings, but was occasioned by an intervening appellate decision. The Second Circuit has decided

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a case, binding precedent for this Court, that advances new reasoning addressing a significant issue in the case and warrants revisiting the Court's analysis . . . .

In view of the policy of the PSLRA to deny discovery until a complaint has been authoritatively sustained by the court, it is appropriate to extend the stay under the present circumstances." 373 F. Supp. 2d at 256.

Accordingly, we respectfully submit that the PSLRA discovery stay should remain in place while the Court considers Defendants' Motion for Reconsideration, and Plaintiffs' request for a pre-motion conference on their intended motion to compel Defendants should be denied without prejudice.

Granted  
/DAB/  
11/30/11

Respectfully submitted,

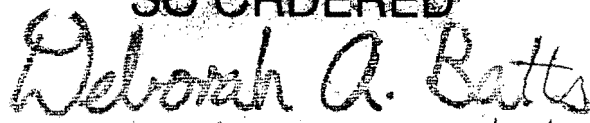


David G. Januszewski

The Honorable Deborah A. Batts  
United States District Court  
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BY HAND

cc: All Attorneys of Record (via e-mail)

SO ORDERED  
  
DEBORAH A. BATTs 11/30/11  
UNITED STATES DISTRICT JUDGE

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